

2 OCT 1967

MEMORANDUM FOR: Deputy Director of Central Intelligence

SUBJECT: Proposed Agency Legislation to Revise the CIA Retirement Act of 1964 and the CIA Act of 1949

1. This is in response to your memorandum of 27 September providing additional comment on the proposed Agency legislation.
2. With regard to the actuarial implications in terms of money, where a widow's annuity is continued after remarriage, the Director of Personnel is now checking with the Civil Service Commission and the Department of State in a new attempt to forecast possible remarriage potential among survivor spouses covered under the CIA Act. When this information is received an attempt will be made to project a cost, if any, for the item. As for the discussion or argument set forth in the text that the wife has "earned" her annuity, this was the position taken by the Department of State in their original presentation before the Congress and has gained acceptance additionally from our earlier presentations before the House Committee. The question of need for support by a widow has been considered to be inherent in the "earned annuity" approach. It does seem worthwhile to stay with it.
3. With regard to Section 4 relating to termination of child annuity upon marriage of the child, the mere act of marriage as you indicate does not assure the capability of self-support. However, unless incapable of self-support, a child 18 years or over is not recognized as a dependent in Federal legislation for a variety of purposes including Income Tax, Social Security benefits, survivor annuity, etc. This is an almost uniformly applied policy. It is noted that the language in Section 4 actually is not restrictive of this policy, but makes an exception to it to reward

educational efforts, as has been done for Civil Service annuitants. We would be reaching beyond established policy not only in retirement acts, but others to continue the annuity after such an event. We do not have precedent nor do we feel we could justify being more liberal than we have been with regard to termination of the dependent child's annuity.

4. The language used to describe termination of annuities under Section 5 is founded in the language used for other retirement acts and has had a good history of usage and of interpretation by the General Accounting Office. This is a technical type of provision and deals for the most part only with the payroll problem of determining the dates for initiation or cessation of payments. The language "other terminating events" which you noted is not operative language in determining benefits under the act. The benefits themselves are determined wholly in other provisions.

5. With regard to Section 9 concerning advisory personnel and the National Security Act limitation on the rate of compensation payment to advisory personnel, I talked to Mr. Robert F. Keller, General Counsel to the Comptroller General, on Wednesday. Mr. Keller agreed that every other agency in Government had authority to exceed the \$50 rate set forth in the National Security Act, but is of the opinion that our general authority could not overcome such a specific limitation. (See attached memorandum of 27 September.) As originally presented to the Congress, the bill simply removed the \$50 limitation. The full Armed Services Committee, in their consideration, however, adopted the view that this would be hard to defend on the floor of the House and urged the \$100 limitation. In consequence, I feel the provision should remain in its present form, but that consideration be given to suggesting in our discussion before the Committee that the wording of the limitation be changed to provide for payment at the upper limit of the General Schedule, which at the present time is \$99, the daily rate of a G. S. 18. Such a provision would allow necessary increase in per diem payments to consultants as Federal salaries are advanced, without need for further amendment.

s/ Lawrence R. Houston

Lawrence R. Houston
General Counsel

Attachment

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2 - OGC

27 September 1967

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT: Limitation on Consultant Fees

1. This memorandum is for information.

2. On 27 September I talked to Mr. Robert F. Keller, General Counsel to the Comptroller General, about our problem with the provision in section 303(a) of the National Security Act of 1947, as amended, which states that part-time advisory personnel may receive compensation at a rate not to exceed \$50.00 for each day of service. Mr. Keller agreed that every other agency in Government had authority to exceed this rate by a considerable amount. I asked if we could pay higher rates under our general authorities given to us "notwithstanding the provisions of any other law" in the Central Intelligence Agency Act, which was passed after the National Security Act. Mr. Keller is of the opinion that our general authorities could not overcome such a specific prohibition, particularly referring to the receipt of compensation, and that he would have to so rule if formally approached. He, therefore, felt we should include a repeal provision in our legislative proposals.

s/

LAWRENCE R. HOUSTON
General Counsel

cc: DDS

✓ Legislative Counsel

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